IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.342 OF 2005

Mr.Abhay Mehta ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr.G.R.Sharma for Applicant.

Ms.Y.S.Shinde, A.P.P. for Respondent No.1.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 28, 2005.

P.C.

1. The only contention raised before me is that the Revision as filed was not maintainable. The said Revision was filed taking advantage of the observations made in the order of this Court dated February 24, 2005. However, even on careful perusal of the impugned Judgment, there is no indication that question regarding maintainability of the Revision was raised before the lower Court. Point which was not raised before the lower Court

will not be permitted to be raised for the first time in these proceedings.

2. The order which is impugned is the remand order passed by the Revisional Court directing the Trial Court to consider the case afresh after hearing both sides on the point of sentence.

3. Counsel for the Applicant, however, contends that the question regarding maintainability of the Revision was specifically raised before the Revisional Court. However, it is not possible to accept this grievance in view of the decision of the Apex Court in **A.I.R. 1982 SC 1249 in the case of State of Maharashtra vs. Ramdas Shrinivas Nayak & Anr.**

4. Hence, no interference is warranted. Dismissed.

A.M.KHANWILKAR, J.